

STATE OF NEW YORK

STATE TAX COMMISSION

In the Matter of the Petitions

of

CATON APARTMENTS, INC.

for redetermination of deficiencies
of franchise tax under Article 9-A
of the tax law for calendar years
1964, 1965 and 1966.

Caton Apartments, Inc. having filed petitions for redetermination of deficiencies of franchise tax under Article 9-A of the tax law for calendar years 1964, 1965 and 1966 and a hearing with respect to the petitions having been held at the office of the State Tax Commission at 80 Centre Street, New York, N.Y. on February 10, 1971 before John J. Genevich, Hearing Officer of the Department of Taxation and Finance, at which hearing the taxpayer was represented by Mortimer H. Tischler, Vice President and Secretary of the taxpayer, testimony having been taken and the matter having been duly examined and considered,

The State Tax Commission finds:

(1) The taxpayer was incorporated under the laws of New York State on November 12, 1963.

(2) In reports filed for 1964, 1965 and 1966, total capital was computed by the taxpayer as follows:

	<u>1964</u>	<u>1965</u>	<u>1966</u>
Average Assets	\$1,996,595.26	\$3,899,328.49	\$4,886,146.60
Average Current Liabilities	1,624,486.29	3,799,377.45	4,866,133.86
Average Total Capital	372,108.97	99,951.04	20,012.74

(3) Average current liabilities for 1964 include loans to the taxpayer of \$1,513,660.66 made by Aetna Life Insurance Company secured by a mortgage dated February 5, 1964, which

is due on December 1, 2004. The mortgage requires monthly amortization payments, commencing in 1966, of \$6,150.50.

(4) Average current liabilities for 1965 were incorrectly computed by the taxpayer. A rider submitted discloses average liabilities of \$3,805,955.96, including average loans of \$3,603,108.55 by Aetna secured by the same mortgage.

(5) Average assets and current liabilities for 1966 were incorrectly computed by the taxpayer. Average assets were overstated by \$50,000. A rider submitted discloses average liabilities of \$4,884,712.36, including average loans of \$4,216,448.21 by Aetna secured by the same mortgage.

(6) The Department of Taxation and Finance issued notices of deficiency on September 16, 1968 disallowing average loans by Aetna and adjusting average assets and current liabilities as follows:

	<u>1964</u>	<u>1965</u>	<u>1966</u>
Average Assets	\$1,996,595.26	\$3,899,328.49	\$4,836,146.60
Average Current Liabilities	110,825.62	202,847.41	668,264.00
Average Capital	1,885,769.64	3,696,481.08	4,167,882.60
Tax at 1 Mill	1,885.77	3,696.48	4,167.88
Tax per report	372.11	99.95	25.00
Deficiency	1,513.66	3,596.53	4,142.88

(7) Section 208.7 of the tax law provides, in part, as follows:

"The term 'business capital' means all assets, other than subsidiary capital, investment capital and stock issued by the taxpayer, less liabilities * * * which are payable by their terms on demand or within one year from the date incurred, other than loans or advances outstanding for more than a year as of any date during the year covered by the report * * *."

Based on the foregoing findings and all of the evidence presented, the State Tax Commission hereby

DECIDES:

(A) That the loans made to the taxpayer by Aetna Life Insurance Company were not payable on demand or within one year from the date incurred and therefore do not qualify as deductions in computing business capital.

(B) That the notices of deficiency are correct and are affirmed together with interest and additions to tax computed in accordance with Sections 1084 and 1085 of the tax law.

Dated at Albany, New York
this 29th day of March 1971

STATE TAX COMMISSION



President



Commissioner



Commissioner